

Karina Casas

From: 57837-97389939@requests.muckrock.com
Sent: Thursday, June 20, 2019 10:45 AM
To: City Clerk
Subject: California Public Records Act Request: Public Contracts (Office Of The City Manager)

June 20, 2019

This is a follow up to a previous request:

To Whom It May Concern:

I. Background Information

Contract administration is frequently a source of concerning behavior in the public sector. For example:

- In the aftermath of Hurricane Maria, a company with only two employees (Whitefish Energy) was hired by PREPA, Puerto Rico's public utility company, to restore power to the island at a cost of \$300M. The contract had audit-proofing clauses and left little recourse for PREPA due to nonperformance. After 8 months, Puerto Rico did not have power fully restored and now Congressional and FBI investigations are pending.
- During an internal audit of the City of San Diego's contracting practices, the contract with office products supplier Staples was found to exceed the City Council's approved \$2M annual threshold by a full \$1M. Auditors found insufficient financial controls and produced a further 60 pages of recommendations.
- The US Defense Contract Audit Agency (DCAA) found sustained exceptions for incurred costs audits 28.6% of the time in its 2017 Report to Congress.
- From 2010 to 2013, a Maryland Transit Authority employee allegedly used poor contracting oversight to siphon \$6.3M from the state coffers.
- The City of Vallejo, CA was recently the victim of an alleged contracting kickback scheme run by the city's landscape maintenance manager, only uncovered in an FBI investigation. The kickback scheme occurred only a few years after the city was in Chapter 9 bankruptcy because of ballooning contractual obligations.
- In recent years, officials in the southern California cities of Bell, Irwindale, La Puente, Monterey Park, Pico Rivera, Temple City, and Vernon have been brought up on various public corruption charges.

While the vast majority of public contracting is done with integrity, bad actors and a lack of public knowledge have a disproportionate effect on the fiscal wellbeing and public trust of every level of government.

II. Requested Records

Pursuant to the { law }, I hereby request the following records:

1. Any and all executed contracts, memorandums of understanding (MOUs), and other equivalent agreements that are currently active, or were active within the last two years, other than standard employee agreements. Please provide a copy of the executed document as well as any addenda, amendments, attachments, exhibits, materials, and schedules.

2. Any and all contract template documents, for example, employee agreements, vendor agreements, master services agreements, nondisclosure agreements, or interagency cooperation contracts.

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3. General policies and procedures for contract administration, including training materials and records used to instruct members of your agency in contract administration.
4. Any available process narratives, audit reports, or findings regarding contract administration covering the last two years.

I am happy to discuss any issues or suggestions to make fulfillment more manageable for your office.

III. Fees

If there are any fees for searching or copying these records, please inform me in advance of fulfilling the request.

I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of how governments manage public money and the obligations to which they are entrusted.

Neither I, nor my company (Legal Robot), has any commercial interest in obtaining the requested information. Rather, we intend to use software to analyze and disseminate the requested information free of charge so that the public may identify patterns of bad behavior that, when eliminated, will benefit governments and the public alike.

We plan to enrich and cross-link the information we receive from multiple jurisdictions, and provide an exploratory interface for the public on the internet, for free. Because we consider this work to be Data Journalism, and we further expect to provide our analysis to other media organizations for additional print and online publication, I ask to be categorized as a representative of the news media. Upon request, I am happy to provide our analysis and any articles we write based on our analysis in advance of publication, though I cannot speak for other media outlets.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 10 calendar days, as the statute requires.

Sincerely,

Dan Rubins

Filed via MuckRock.com

E-mail (Preferred): 57837-97389939@requests.muckrock.com

Upload documents directly: https://accounts.muckrock.com/accounts/login/?url_auth_token=AABCu-Kmu4mEyq4SFrs24maGEq%3A1he17I%3A3kPznZXHUXIH21HBayILdbI3vt8&next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Fnext%3D%252Faccounts%252Fagency_login%252Foffice-of-the-city-manager-14917%252Fpublic-contracts-office-of-the-city-manager-57837%252F%253Femail%253Dcityclerk%252540elmonteca.gov

Is this email coming to the wrong contact? Something else wrong? Use the above link to let us know.

For mailed responses, please address (see note):

MuckRock News

DEPT MR 57837

411A Highland Ave

Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.

On June 17, 2019:

Subject: RE: California Public Records Act Request: Public Contracts (Office Of The City Manager)

To whom it may concern:

The California Public Records Act (Cal. Gov't Code § 6253(c)) specifically requires that an agency provide a response to a public records request within ten business days of receipt of that request. I submitted this request 11 months ago.

By failing to respond to this request within the legally-mandated timeframe, this agency is in violation of the law.

Please provide acknowledgment of this request and the responsive materials forthwith. If such materials cannot be produced, please provide an appropriate explanation for this rejection, as is dictated by this agency's legal obligations under the California Public Records Act. Your accelerated attention to this matter will be greatly appreciated.

On Aug. 3, 2018:

Subject: RE: California Public Records Act Request: Public Contracts (Office Of The City Manager)

Hello,

I have not yet received a response to my public records request submitted on 7/13/18. As a reminder, the California Public Records Act requires an initial response within 10 calendar days. I understand the first part of my request is relatively large, so hopefully my comments here limit the scope of responsive documents. Also, please let me know if you need more time.

Regarding the first part of the request: I am looking at the last couple years of legal language, primarily in procurement documents, so plans, drawings, price lists or other attachments without legal terms are not necessary, if that helps. We can easily exclude agreements that use standard templates, if I can get a blank template (hence, request part 2).

Perhaps we can start with a subset of records that are already in electronic form? The actual signature is not important for my work, I am just looking for the version of the document that was executed. If any of the agreements are already online through agendas or meeting minutes, please direct me to those and we can easily exclude those documents from this request.

Finally, please feel free to email or call me at (415) 894-0240 if you have questions or need any clarification.

Thanks,
Dan Rubins

On July 11, 2018:

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